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10 Attorneys for Plaintiff
UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 DURK BANKS,
17 DEANDRE DONTRELL WILSON,
DAVID BRIAN LINDSEY, and
18 ASA HOUSTON,

19 Defendants.
20
21

No. CR 24-621(A)-MWF-2,4,5,6

STIPULATION FOR PROTECTIVE ORDER
REGARDING DISCOVERY CONTAINING
PERSONAL IDENTIFYING INFORMATION,
MEDICAL INFORMATION, PRIVACY ACT
INFORMATION, AND PROTECTED WITNESS
INFORMATION AS TO DEFENDANTS DURK
BANKS, DEANDRE DONTRELL WILSON,
DAVID BRIAN LINDSEY, and ASA
HOUSTON

22 Plaintiff, United States of America, by and through its counsel
23 of record, the United States Attorney for the Central District of
24 California and Assistant United States Attorneys Ian V. Yanniello,
25 Gregory W. Staples, and Daniel H. Weiner, and defendants DURK BANKS,
26 DEANDRE DONTRELL WILSON, DAVID BRIAN LINDSEY, and ASA HOUSTON, by
27 and through their counsel (collectively the "parties"), for the
28 reasons set forth below, request that the Court enter the proposed

1 protective order (the "Protective Order"), filed concurrently,
2 governing the use and dissemination of (1) personal identifying
3 information ("PII") of real persons pursuant to Federal Rule of
4 Criminal Procedure Rule 16(d)(1), (2) medical or health information,
5 (3) material that may contain information within the scope of the
6 Privacy Act, and (4) information related to protected witnesses who
7 may testify at trial.

8 Introduction and Grounds for Protective Order

9 1. The government represents that based on its understanding
10 of the discovery in this case, a protective order is necessary in
11 this case. The government incorporates the allegations of the First
12 Superseding Indictment into its representation that the discovery
13 requires a protective order in this case.¹

14 2. Based on the allegations in the First Superseding
15 Indictment and the government's understanding of discovery in this
16 case, the government alleges that there are significant safety
17 concerns regarding disclosure of names and personal identifying
18 information of victims, witnesses, and defendants themselves in this
19 matter.

20 3. Discovery in this matter contains the following types of
21 information:

22 a. Digital devices searched by warrant or consent. In
23 many cases, defendants will receive digital data from devices that
24 did not belong to them. To protect the privacy of the owners of the
25 digital devices, including witnesses, the digital devices or digital

26
27 ¹ Signature by any defense counsel on this stipulation does not
28 imply any admission of the truth of any of the allegations in the
First Superseding Indictment; no defendant waives any challenge to
any of these allegations in any way by this stipulation.

1 data should not be provided to defendants other than for review in
2 the presence of a member of the Defense Team.

3 b. Autopsy related documents, including medical records
4 and graphic photographs, including of violent crime victims. The
5 medical information at issue may also be subject to various federal
6 laws protecting the privacy of medical records, including provisions
7 of the Privacy Act, 5 U.S.C. § 552a; provisions of 45 C.F.R.
8 §§ 164.102-164.534; and/or provisions of 42 U.S.C. § 1306. To
9 protect the privacy interests implicated by these photographs and
10 medical records, these should not be provided to defendants other
11 than for review in the presence of a member of the Defense Team.

12 c. Audio/video recordings, written summaries of
13 statements, and transcripts of statements made by witnesses to and
14 victims of violent events including murder. Such documents and
15 recordings often contain the personal identifying information of
16 protected witnesses, and the unrestricted release of such items
17 would endanger the safety of those individuals.

18 d. Audio/video recordings, written summaries of
19 statements, and transcripts of any statements made by defendants to
20 law enforcement. Such documents and recordings will reveal which,
21 if any, defendants have spoken to law enforcement at any time, and
22 will endanger those defendants' safety.

23 e. Surveillance videos of violent events including
24 murder and law enforcement reports about such events. To protect
25 the legitimate privacy interests of the victims, and prevent the use
26 of such items for intimidation purposes, these should not be
27 provided to defendants other than for review in the presence of a
28 member of the Defense Team.

1 4. To ensure that information concerning victims, witnesses,
2 and defendants is not disseminated or used by persons who might wish
3 to intimidate or harm victims, witnesses, or defendants, and also to
4 do so in a manner that ensures defendants' rights to prepare an
5 effective defense, the parties respectfully request entry of a
6 protective order for discovery in this case.

7 5. Federal Rule of Criminal Procedure 16(d)(1) provides that
8 "[a]t any time the court may, for good cause, deny, restrict, or
9 defer discovery or inspection, or grant other appropriate relief."

10 6. A protective order is appropriate where there is reason to
11 believe that a witness would be subject to physical or economic harm
12 if his identity is revealed. See Fed. R. Crim. P. 16 advisory
13 committee's notes to 1974 amendments.

14 7. In determining whether a protective order is appropriate,
15 courts consider such factors as the safety of witnesses and others
16 and the danger of witness intimidation. See Fed. R. Crim. P. 16
17 advisory committee's notes to 1966 amendments.

18 8. The government asserts that the record demonstrates good
19 cause to permit the Court to exercise its discretion to restrict
20 discovery and inspection of information concerning victims,
21 witnesses, and defendants in this case, as further described below,
22 and to grant such relief as is necessary to ensure the
23 confidentiality of that information.

24 9. A protective order is also necessary because the
25 government intends to produce to the defense materials containing
26 third parties' PII. The government believes that disclosure of this
27 information without limitation risks the privacy and security of the
28 information's legitimate owners. Because the government has an

1 ongoing obligation to protect third parties' PII, the government
2 cannot produce to defendants an unredacted set of discovery
3 containing this information without the Court entering the
4 Protective Order. Moreover, PII makes up a significant part of the
5 discovery in this case and such information itself, in many
6 instances, has evidentiary value. If the government were to attempt
7 to redact all this information in strict compliance with Federal
8 Rule of Criminal Procedure 49.1, the Central District of
9 California's Local Rules regarding redaction, and the Privacy Policy
10 of the United States Judicial Conference, the defense would receive
11 a set of discovery that would be highly confusing and difficult to
12 understand, and it would be challenging for defense counsel to
13 adequately evaluate the case, provide advice to defendant, or
14 prepare for trial.

15 10. An order is also necessary because the government intends
16 to produce to the defense materials that may contain information
17 within the scope of the Privacy Act, 5 U.S.C. § 552a ("Privacy Act
18 Information"). To the extent that these materials contain Privacy
19 Act Information, an order is necessary to authorize disclosure
20 pursuant to 5 U.S.C. § 552a(b)(11).

21 11. The purpose of the Protective Order is to (a) allow the
22 government to comply with its discovery obligations while protecting
23 this sensitive information from unauthorized dissemination, and
24 (b) provide the defense with sufficient information to adequately
25 represent defendant.

26 Definitions

27 a. "Protected Witness Materials" includes any
28 information relating to any protected witness's prior history of

1 assistance with law enforcement, prior criminal history, statements,
2 or any other information that could be used to identify a protected
3 witness, such as a name, image, address, date of birth, or unique
4 personal identification number, such as a Social Security number,
5 driver's license number, account number, or telephone number, or
6 discovery containing statements made by defendants to law
7 enforcement that were audio and/or video recorded, summarized in
8 reports or affidavits, and/or contained in transcripts.

9 b. "PII Materials" includes any information that can be
10 used to identify a person, including a name, address, date of birth,
11 Social Security number, driver's license number, telephone number,
12 account number, email address, or personal identification number.

13 c. "Medical Materials" includes any individually
14 identifiable health information that is connected to a patient's
15 name, address, or other identifying number, such as a Social
16 Security number.

17 d. "Confidential Information" refers to any document or
18 information containing Protected Witness Materials, PII Materials,
19 or Medical Materials that the government produces to the defense
20 pursuant to this Protective Order and any copies thereof.

21 e. "Defense Team" includes (1) defendants' counsel of
22 record ("defense counsel"); (2) other attorneys at defense counsel's
23 law firm who may be consulted regarding case strategy in this case;
24 (3) defense investigators who are assisting defense counsel with
25 this case; (4) retained experts or potential experts; and
26 (5) paralegals, legal assistants, and other support staff to defense
27 counsel who are providing assistance on this case. The Defense Team
28

1 does not include defendants, defendants' family members, or any
2 other associates of defendants.

3 f. The government is authorized to provide defense
4 counsel with Confidential Information marked with the following
5 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
6 ORDER." The government may put that legend on the digital medium
7 (such as DVD or hard drive) or simply label a digital folder on the
8 digital medium to cover the content of that digital folder. The
9 government may also redact any PII contained in the production of
10 Confidential Information.

11 g. If a defendant objects to a designation that material
12 contains Confidential Information, the parties shall meet and
13 confer. If the parties cannot reach an agreement regarding
14 defendants' objection, defendants may apply to the Court to have the
15 designation removed.

16 h. Defendants and the Defense Team shall use the
17 Confidential Information solely to prepare for any pretrial motions,
18 plea negotiations, trial, and sentencing hearing in this case, as
19 well as any appellate and post-conviction proceedings related to
20 this case.

21 i. The Defense Team shall not permit anyone other than
22 the Defense Team to have possession of Confidential Information,
23 including defendant, while outside the presence of the Defense Team.

24 j. Notwithstanding the paragraph above, defendants may
25 see and review Protected Witness Materials only in the presence of
26 defense counsel or a designated person (as defined below), and
27 defense counsel shall ensure that defendants are never left alone
28 with any Protected Witness Materials. At the conclusion of any

1 meeting with defendants at which defendants are permitted to view
2 Protected Witness Materials, defendants must return any Protected
3 Witness Materials to defense counsel, who shall take all such
4 materials with counsel. Defendants may not take any Protected
5 Witness Materials out of the room in which defendants are meeting
6 with defense counsel. At no time, under no circumstance, will any
7 Confidential Information be left in the possession, custody, or
8 control of defendants, regardless of defendants' custody status. If
9 defense counsel wishes to enable defendants to review Protected
10 Witness Materials in the presence of any person on the Defense Team
11 other than defense counsel, defense counsel shall submit a letter to
12 government counsel of record identifying that person (the
13 "designated person"), and shall submit a copy of this stipulation
14 that has been signed by that designated person. Upon receipt of
15 those materials, if the government, in its sole discretion, finds
16 the designated person acceptable, prior to the designated person
17 reviewing any Protected Witness Materials with defendants,
18 government counsel of record will confirm in writing that defendants
19 are additionally allowed to review Protected Witness Information in
20 the presence of the designated person.

21 k. Defendants may review other Confidential Information
22 (i.e., Confidential Information that is not Protected Witness
23 Material) only in the presence of a member of the Defense Team, who
24 shall ensure that defendants are never left alone with such
25 materials. At the conclusion of any meeting with defendants at
26 which defendants are permitted to view such materials, defendants
27 must return such materials to the Defense Team, and the member of
28 the Defense Team present shall take all such materials with him or

1 her. Defendants may not take any such materials out of the room in
2 which defendants are meeting with the Defense Team.

3 1. Defendants may see and review Confidential
4 Information as permitted by this Protective Order, but defendants
5 may not copy, keep, maintain, or otherwise possess any Confidential
6 Information in this case at any time. Defendants also may not write
7 down or memorialize any data or information contained in the
8 Confidential Information.

9 m. The Defense Team may review Confidential Information
10 with a witness or potential witness in this case, including
11 defendant. Defense counsel must be present whenever any Protected
12 Witness Materials are being shown to a witness or potential witness.
13 A member of the Defense Team must be present if other Confidential
14 Information (i.e., Confidential Information that is not Protected
15 Witness Material) is being shown to a witness or potential witness.
16 Before being shown any portion of Confidential Information, however,
17 any witness or potential witness must be informed of, and agree in
18 writing to be bound by, the requirements of the Protective Order.
19 No member of the Defense Team shall permit a witness or potential
20 witness to retain Confidential Information.

21 n. The Defense Team shall maintain Confidential
22 Information safely and securely, and shall exercise reasonable care
23 in ensuring the confidentiality of those materials by (1) not
24 permitting anyone other than members of the Defense Team, defendant,
25 witnesses, and potential witnesses, as restricted above, to see
26 Confidential Information; (2) not divulging to anyone other than
27 members of the Defense Team, defendants, witnesses, and potential
28 witnesses, the contents of Confidential Information; and (3) not

1 permitting Confidential Information to be outside the Defense Team's
2 offices, homes, vehicles, or personal presence. Protected Witness
3 Materials shall not be left unattended in any vehicle.

4 o. To the extent that the Defense Team create notes that
5 contain, in whole or in part, Confidential Information, or to the
6 extent that copies are made for authorized use by members of the
7 Defense Team, such notes, copies, or reproductions become
8 Confidential Information subject to the Protective Order and must be
9 handled in accordance with the terms of the Protective Order.

10 p. The Defense Team shall use Confidential Information
11 only for the litigation of this matter and for no other purpose.
12 Litigation of this matter includes any appeal filed by defendants
13 and any motion filed by defendants pursuant to 28 U.S.C. § 2255. In
14 the event that a party needs to file Confidential Information with
15 the Court or divulge the contents of Confidential Information in
16 court filings, the filing should be made under seal. If the Court
17 rejects the request to file such information under seal, the party
18 seeking to file such information publicly shall provide advance
19 written notice to the other party to afford such party an
20 opportunity to object or otherwise respond to such intention. If
21 the other party does not object to the proposed filing, the party
22 seeking to file such information shall redact any Protected Witness
23 Materials, PII Materials, or Medical Materials, and make all
24 reasonable attempts to limit the divulging of Protected Witness
25 Materials, PII Materials, or Medical Materials.

26 q. Any Confidential Information inadvertently produced
27 in the course of discovery prior to entry of the Protective Order
28 shall be subject to the terms of the Protective Order. If

1 Confidential Information was inadvertently produced prior to entry
2 of the Protective Order without being marked "CONFIDENTIAL
3 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government
4 shall reproduce the material with the correct designation and notify
5 defense counsel of the error. The Defense Team shall take immediate
6 steps to destroy the unmarked material, including any copies.

7 r. If any Confidential Information contains both
8 Protected Witness Materials and another category of Confidential
9 Information, the information shall be handled in accordance with the
10 Protected Witness Materials provisions of the Protective Order.

11 s. Confidential Information shall not be used by
12 defendants or Defense Team, in any way, in any other matter, absent
13 an order by this Court. All materials designated subject to the
14 Protective Order maintained in the Defense Team's files shall remain
15 subject to the Protective Order unless and until such order is
16 modified by this Court. Within 30 days of the conclusion of
17 appellate and post-conviction proceedings, defense counsel shall
18 return Protected Witness Materials to the government or certify that
19 such materials have been destroyed. Within 30 days of the
20 conclusion of appellate and post-conviction proceedings, defense
21 counsel shall return all other Confidential Information, certify
22 that such materials have been destroyed, or certify that such
23 materials are being kept pursuant to the California Business and
24 Professions Code and the California Rules of Professional Conduct.

25 t. In the event that there is a substitution of counsel
26 prior to when such documents must be returned, new defense counsel
27 must be informed of, and agree in writing to be bound by, the
28 requirements of the Protective Order before the undersigned defense

1 counsel transfers any Confidential Information to the new defense
2 counsel. New defense counsel's written agreement to be bound by the
3 terms of the Protective Order must be returned to an Assistant U.S.
4 Attorney assigned to the case. New defense counsel then will become
5 the Defense Team's custodian of materials designated subject to the
6 Protective Order and shall then become responsible, upon the
7 conclusion of appellate and post-conviction proceedings, for
8 (1) returning to the government, certifying the destruction of, or
9 retaining pursuant to the California Business and Professions Code
10 and the California Rules of Professional Conduct all other
11 Confidential Information (i.e., Confidential Material that is not
12 Protected Witness Material); and (2) returning to the government or
13 certifying the destruction of all Protected Witness Materials.

14 u. Defense counsel agrees to advise defendant and all
15 members of the Defense Team of their obligations under the
16 Protective Order and ensure their agreement to follow the Protective
17 Order, prior to providing defendant and members of the Defense Team
18 with access to any materials subject to the Protective Order.

19 v. Defense Counsel has conferred with defendant
20 regarding this stipulation and the proposed order thereon, and
21 defendant agrees to the terms of the proposed order.

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23 ////

24 ////

25 ////

1 w. Accordingly, the parties have agreed to request that
2 the Court enter a protective order in the form submitted herewith.

3 IT IS SO STIPULATED.

4 DATED: December 9, 2024

/s/

5 IAN V. YANNIELLO
6 GREGORY W. STAPLES
7 DANIEL H. WEINER
8 Assistant United States Attorneys

9 Attorneys for Plaintiff
10 UNITED STATES OF AMERICA

11 DATED: December 9, 2024

/s/ per email authorization

12 DREW FINDLING
13 MARISSA GOLDBERG
14 JONATHAN BRAYMAN
15 CHRISTY O'CONNOR
16 Attorney for Defendant
17 DURK BANKS

18 DATED: December 9, 2024

/s/ per email authorization

19 DANIEL NARDONI
20 Attorney for Defendant
21 DEANDRE DONTRELL WILSON

22 DATED: December 9, 2024

/s/ per email authorization

23 SIMON AVAL
24 Attorney for Defendant
25 DAVID BRIAN LINDSEY

26 DATED: December 9, 2024

/s/ per email authorization

27 VITALY SIGAL
28 Attorney for Defendant
ASA HOUSTON